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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,319	12/27/2001	Ji-Moon Chung	5294-000002	3214

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EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,319

Applicant(s)

CHUNG ET AL

Examiner

Krisanne Jastrzab

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 8, the recitation in this claim regarding the "heater housing" is found to be vague and indefinite because it appears to read as though the housing is being inserted in a recess within itself. Clarification is required.

With respect to claim 9, the recitation "of the apparatus" within the body of the claim is found to be vague and indefinite because it improperly attempts to define the apparatus by itself. It is also unclear as to whether "a heating assembly" as recited in this claim, is the same element as "a heater housing" of claim 8, from which this claim depends. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1 and 6-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Van Dalen U.S. patent No. 3,872,280 or Glucksman U.S. patent No. 4,804,821.

Both Van Dalen and Glucksman '821 teach an apparatus for heating a deodorizing agent wherein a housing is provided with support means for a contained deodorant, means for heating the contained deodorant and a power supply for the heating means. See column 2, lines 60-68, column 3, lines 20-40 and the claims of Van Dalen. See column 3, lines 10-15 and 53-68, column 6, lines 45-60 and column 7, lines 15-25 of Glucksman '821.

Claims 1, 4 and 6-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Muñoz Quintana U.S. patent No. 5,788,931.

See column 1, lines 40-45, column 2, lines 25-45 and the figures.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith U.S. patent No. 5,373,581.

See column 4, lines 40-68 and column 5, lines 8-12.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated Spector U.S. patent No. 4,695,434.

See column 3, lines 32-68 and column 4, lines 30-37.

Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Glucksman U.S. patent No. 4,631,387.

Glucksman '387 teaches an apparatus for vaporizing a deodorant agent having a housing with mean therein to support a contained deodorant. It also contains means to

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heat the contained deodorant such that the deodorant is vaporized and released. The apparatus is provided with an indicator light that is lit when the heater is being operated. The heater is controlled by a bi-metal switch that will turn the heater off if a temperature is reached which exceeds a preset maximum temperature. The heating assembly includes an insulatively contained serpentine or rope heater element. See column 3, lines 17-25 and 43-52, column 4, lines 5-27 and 47-55 and column 5, lines 15-23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glucksman '387.

Glucksman clearly teaches the use of a serpentine heating element, but is silent as the specification that it be a PTC thermistor, nor that it be wound around a tie rod, however, the Examiner would assert the PTC thermistors are well recognized in the art, as is the support of a serpentine heating element by winding around a rod, and that these configurations rise to mere engineering design choices well recognized in the art.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glucksman '387 as applied to claims 2-3 and 8 above, and further in view of Spector.

Spector teaches the known and expected containment of the aroma cartridge with a sealing film layer prior to initial use to retain the aroma charged thereon as well as the construction of the aroma disk itself, as a thin film, and it would have been obvious to one of ordinary skill to provide such containment means in Glucksman. It is noted that such films would melt upon activation of heating.

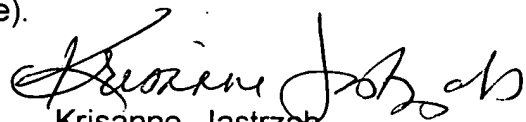
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrzab
Primary Examiner
Art Unit 1744

March 21, 2005